UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/038,874
Filing Date: December 31, 2001
Appellant(s): ROBERTS ET AL.

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
For Appellant

EXAMINER'S ANSWER

This is in response to the supplemental appeal brief filed May 28, 2008 appealing from the

Office action mailed September 20, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,637,029 B1	Maissel et al.	10-2003
5,982,369 A	Sciammarella et al.	11-1999
US 6,216,134 B1	Heckerman et al.	4-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1.   Claims 1, 3-6, 8-11, 13-16, and 18-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Maissel et al. ("Maissel", US 6,637,029 B1).

As per claims 6 and 9-10, Maissel teach a content reception system comprising:

a input receiving content and information items regarding the content, wherein the information items form a search pool (col. 12, lines 16-34; col. 13, lines 34-40; *viewer preference profile providing a search criteria*) ; and

a display controller receiving search results from a search on the search pool and generating a plurality of graphical elements representative of each available item within a search pool, a graphical feature of each graphical element depending upon a relevance of the associated item to specified criteria (fig. 9D; *col. 20, lines 3-17; results of search based on the preference*

*profile showing graphical elements 395, 397 and 390 with different images depicting different
graphical feature for each graphical element depending upon relevancies*)

wherein the graphical element is automatically updated in response to any change to the
specified criteria or the search pool (*results of search showing in fig. 9D would clearly be
changed automatically upon any change made to viewer preference profile and the display of the
same fig. 9D being refreshed*),

wherein the graphical element is dyna automatically updated whenever the specified
criteria are changed by either adding; deleting or modifying a search query element or updating
a user profile, and wherein the graphical element is dynamically updated whenever an item is
added or deleted from the search pool (col. 12, lines 46 et seq.; *results of search showing in fig.
9D would clearly be changed automatically upon any change made to viewer preference profile
and the display of the same fig. 9D being refreshed*).

As per claim 8, Maissel teach one or more graphical elements are representative of
multiple items within the search pool and serving as a user control triggering expanded display
of additional graphical elements each representative of a subset of the multiple items (col. 20,
line 60 – col. 21, line 29; *graphical elements are stored and displayed in a hierarchical manner
and could be expanded by user initiation*).

Claims 1 and 3-5 are individually similar in scope to claims 6 and 8-10 respectively, and
are therefore rejected under similar rationale.

Claims 11 and 13-15 are individually similar in scope to claims 6 and 8-10 respectively,
and are therefore rejected under similar rationale.

Claims 16 and 18-20 are individually similar in scope to claims 6 and 8-10 respectively, and are therefore rejected under similar rationale.

As per claim 21, Maissel teaches the medium to be storage medium (*inherent to the system so that pertinent information could be stored and processed as required*).

As per claim 22, Maissel teaches the graphical feature to be automatically updated without user intervention in response to any change to the specified criteria or the search pool (col. 12, lines 46 et seq.; *graphical elements shown in fig. 9D as a result of search would clearly be changed automatically without user intervention after any change made to viewer preference profile and the display of the same fig. 9D being refreshed*).

Claims 23-24 are similar in scope to claim 6, and are therefore rejected under similar rationale.

Claim Rejections - 35 USC § 103

2.   Claims 2, 7, 12, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel et al. ("Maissel", US 6,637,029 B1) in view of Sciammarella et al. ("Sciammarella", US 5,982,369 A).

Maissel teaches all of the limitations as applied to claim 6 above. However, Maissel does not teach the graphical feature of each graphical element depending upon the relevance of the associated item to specified criteria further comprises one of a size of the graphical element or a perceived proximity of the graphical element to a viewer. Sciammarella teaches a method for providing a graphical feature of graphical elements in a user interface, wherein depending upon

the relevance of associated items to specified criteria, graphical elements are affected by size (fig. 2; col. 3, lines 32-48). It would have been obvious to an artisan at the time of the invention to combine Sciammarella's teaching with the system of Maissel in order to provide a user with an immediate visual feedback of the most relevant search results according to the user's preferences.

Claims 2, 12 and 17 are individually similar in scope to claim 7, and are therefore rejected under similar rationale.

3.   Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maissel et al. ("Maissel", US 6,637,029 B1) in view of Heckerman et al. ("Heckerman", US 6,216,134 B1).

As per claim 25, while Maissel teaches the graphical element to be updated, and the graphical element is updated automatically without user intervention when a change is made to the specified criteria or the search pool (col. 12, lines 46 et seq.; *graphical elements shown in fig. 9D as a result of search would clearly be changed automatically without user intervention after any change made to viewer preference profile and the display of the same fig. 9D being refreshed*), Maissel does not disclose the updated graphical element is viewable automatically without user intervention. Heckerman teaches a method for visualization of searched information, wherein graphical elements are updated and the updated graphical elements are viewable automatically without user intervention when a change is made to the specified criteria (figs. 2; col. 5, lines 33-47). It would have been obvious to an artisan at the time of the invention to combine Heckerman's teaching with Maissel's method in order to improve on Maissel's method with an immediate visual feedback when a change to the criteria is made.

(10) Response to Argument

Appellants' primary argument is focused on the Maissel et al ("Maissel") reference for not teaching or suggesting "a graphical element automatically updated in response to any change to the specified criteria," and that Maissel's different icons may be displayed at different times, but any one icon is the same every time it is displayed, and the thus the icon is not updated.

The Examiner respectfully disagrees and would like to point out how the claim language, as recited in light of the disclosure of the specification, is interpreted and how it is still read on by the Maissel reference. The term "updated," as recited in "a graphical element automatically updated", is interpreted by the Examiner to involve changing or replacing the displayed graphical element with another graphical element to reflect a new search condition/criteria. Significantly, this process of updating takes place irrespective of whether the graphical element is a static image or not, and the results will still be such that different graphical elements are shown to the user. The updating process is shown by Maissel where the results of a search depicted in fig. 9D are clearly being updated automatically upon any change made to a viewer preference profile, and resulting in the refreshed display of the same fig. 9D.

Furthermore, the Appellants indicated, on page 7 of the instant Appeal Brief, that "the Examiner understands the recited term in light of the description in the specification, but the Examiner insists on using a much broader interpretation of the term contrary to all assertions by the Appellants." In response to the above allegation, it is noted that during patent examination, the pending claims must be "given their broadest reasonable interpretation consistent with the specification." >The Federal Circuit's en banc decision in Phillips v. AWH Corp., 415 F.3d

1303, 75 USPQ2d 1321 (Fed. Cir. 2005) expressly recognized that the USPTO employs the "broadest reasonable interpretation" standard (See MPEP § 2111 [R-5]).

On the same note, in the Advisory sent January 3, 2008, every effort was made by the Examiner to assist the Appellants in the interest of expediting the prosecution of the instant application. It was noted that the following is disclosed in the specification of the instant application in paragraph [0034]: "If a condition change occurs (step 304) such as an alteration to the underlying query or user profile or a change in the pool of information searched, updated results and relevance scores are obtained (step 305) and new graphical elements representing the results are generated (step 302)." Thus, based on this disclosure, it appears that the graphical elements are newly generated graphical elements based on changes to the search criteria, rather than previously existed and defined elements such as Maissel's icons. Although the Appellants were invited to clarify the claim language accordingly to better describe the invention so that it would be distinguishing over the applied prior art, the Examiner's recommendation was regretfully declined.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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